IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4357 OF 2006

Mr. Abhimanyu Surendrapal
Singh Chauhan. ... Applicant.

V/s.

The State of Maharashtra ... Respondents.

Ms. Laxmi Menon h/f. Mr. Subhash Jha i/b. M/s Law Global
for the Applicant.

Mr. S.R. Borulkar, P.P. with M.S. Mhambre, A.P.P. for
the State.

.....

CORAM : S.C. DHARMADHIKARI,J.

14TH DECEMBER 2006.

P.C. :

1. This is an application for anticipatory bail in a Special Case under Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The learned Special Judge rejected the application preferred by the Applicant for anticipatory bail only on the ground that the same is not maintainable. It is further observed by him that all offences under the N.D.P.S.Act, 1985 are non-bailable.

3. When this application was placed before me, the learned A.P.P. states that the learned Special Judge has not referred to the say filed by the prosecution before him which indicates that the offence alleged against the

present Applicant is bailable. In other words, stand of the prosecution is that Applicant is accused of commission of bailable offences. It is in these circumstances, that the application for anticipatory bail must be held to be not maintainable.

4. Shri Borulkar has invited my attention to the say filed by the prosecution and in fact has produced a copy thereof. Upon a perusal of the same, it is clear that the application of the present Applicant was contested on the ground that the same is not maintainable, only because the Applicant is accused of committing a bailable offence.

5. In such circumstances, there was no need to go into the larger controversy. Once it is made clear that the Applicant is accused of commission of a bailable offence, then application for pre-arreset bail was not maintainable.

6. In such circumstances, granting liberty to the Applicant to pursue such remedies as are permissible in law, the present application is disposed of.

(S.C.Dharmadhikari,J.)